United States Department of Labor Employees' Compensation Appeals Board

L.D., Appellant		
and)	Docket No. 12-1061 Issued: November 26, 2012
U.S. POSTAL SERVICE, POST OFFICE, Philadelphia, PA, Employer)) _)	issued: November 20, 2012
Appearances: Thomas R. Uliase, Esq., for the appellant		Case Submitted on the Record

Office of Solicitor, for the Director

ORDER REMANDING CASE

Before:
RICHARD J. DASCHBACH, Chief Judge
COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge

Appellant filed an application for review of the Office of Workers' Compensation Programs' (OWCP) December 20, 2011 merit decision denying her claim for a recurrence of disability and the January 10, 2012 merit decision denying her request for an increased schedule award. The appeal was docketed as No. 12-1061. After considering the evidence of record, the Board finds this case is not in posture for a decision.

On October 30, 2009 appellant filed an occupational disease claim alleging that she sustained a cervical condition due to lifting and other work-related activities (File No. xxxxxx072). On January 19, 2010 she underwent cervical discectomy and fusion. OWCP denied appellant's claim in File No. xxxxxx072 by decisions dated January 20, 2010 and January 12, 2011.

This appeal involves appellant's August 8, 2006 occupational disease claim (File No. xxxxxx758), which OWCP accepted for right carpal tunnel syndrome; dorsal ganglion cyst of the right hand and reflex sympathetic dystrophy of the upper limb. After periods of disability,

¹ This case was previously before the Board. In an order dated March 22, 2011, the Board set aside a December 2, 2009 schedule award decision and remanded the case to OWCP for further development. Docket No. 10-1138 (issued March 22, 2011).

appellant returned to light duty on January 24, 2008. She filed a claim for recurrence disability. Appellant submitted medical evidence in support of her allegation that she was unable to work due to her diagnosed cervical disc herniations that were causally related to her accepted injury. Her recurrence claim was denied by decisions dated November 24, 2010 and June 28, 2011. By decision dated December 20, 2011, OWCP denied appellant's request for reconsideration.

By decision dated April 30, 2009, appellant received a schedule award for 26 percent impairment of her right upper extremity.² On March 22, 2011 the Board set aside the schedule award decision and remanded the case for further development. In a July 18, 2011 decision, OWCP denied appellant's request for an increased schedule award. In a January 10, 2012 decision, an OWCP hearing representative affirmed the July 18, 2011 decision. In explaining his ruling, the representative discussed medical evidence relating to appellant's claim for benefits in File No. xxxxxx072, which supported a causal relationship between appellant's cervical condition and her right upper extremity impairment due to the accepted injury in the instant case.

The Board finds that it is essential to review the medical evidence contained in File No. xxxxxx072 in order to render a full and fair adjudication of the present appeal. As the relationship between appellant's cervical condition and her upper extremity condition is at issue in both cases, the medical evidence contained in File No. xxxxxx072 will necessarily bear directly on appellant's claims for compensation and schedule award in this case. Accordingly, this case will be remanded for OWCP to consolidate case file numbers xxxxxx072 and xxxxxx758. Reconstruction of the record will be followed by a *de novo* decision on the merits of the claim, in order to protect appellant's appeal rights.

² The April 30, 2009 decision was affirmed by the Branch of Hearings and Review by decision dated December 2, 2009.

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' January 10, 2012 and December 20, 2011 decisions be set aside and the case remanded for further development consistent with this order.

Issued: November 26, 2012 Washington, DC

Richard J. Daschbach, Chief Judge Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge Employees' Compensation Appeals Board